

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**DAVID MONTOYA and
MICHAEL MONTOYA,**

Plaintiffs,
vs. **No. CIV 10-360 JB/WDS**

GERALD SHELDEN, *et al.*

Defendants.

PLAINTIFFS' PROPOSED VOIR DIRE QUESTIONS

The Plaintiffs, by their attorneys propose the following questions to be asked of the panel during the voir dire examination:

A. **GENERAL VOIR DIRE.**

Albuquerque Police Department

1. Has any member of the panel heard or read anything involving the Albuquerque Police Department and its police practices? If so, what have you heard or read and what was the source of the information?

2. Is there anything that you have heard or read about the Albuquerque Police Department which would impair your ability to act as a fair and impartial juror?

Connection to and credibility of law enforcement officers

1. How many of you have worked in, applied to or had training in law enforcement, or have a family member or close friend who has worked or trained in law enforcement?

2. Are you or any of your family members or close friends connected, in any way, with a law enforcement agency?

3. Have any of you had experiences with police officers before? Please describe

your experiences? Would any of these experiences cause you to consciously or subconsciously favor the police?

4. Some people tend to believe a police officer over other witnesses because of his position in society and his law enforcement training.

A. How many of you agree?

B. Is there anyone who doesn't agree? Why?

C. Have you or anyone you know had experience where police testified falsely or inaccurately against you?

D. Have you heard of such a case?

E. What would be important to you to decide who was telling the truth?

5. Would you give more weight to what a law enforcement officer says because of his badge of office than you would to the Plaintiff or witnesses called by the Plaintiff?

6. How many of you think law enforcement agencies rarely make a mistake nowadays? Why?

7. Are you more inclined to give police the benefit of the doubt, that they are taking legitimate action to protect themselves and deter crime?

Appearances

1. There will be testimony, regarding the use of derogatory name referring to homosexuals, directed towards the Plaintiffs in this case, have any of you:

A. Been exposed to, or know of anyone who's had derogatory terms regarding homosexuality made against them? What happened, how did they feel?

B. Does anyone feel strongly one way or another about the use of derogatory terms to describe people based on their sexual orientation? Explain.

2. Do any of you believe that you have been judged based on your physical appearance? Please explain.

Use of Force

1. Have you ever watched movies or television programs which show police pursuits and use of force by police officers? What do you think of these shows?

2. Who here believes that it is wrong or confrontational for a person being arrested to ask police officers the reason for their arrest? Why?

3. Does anyone here believe they have been the victim of excessive use of force by law enforcement? Please explain.

4. Have any of you been the victim of a beating or the use of force by any person? Please explain. How did you feel after the incident?

5. Do any of you have a taser, stun gun, or mace device? Have you used it? What happened?

6. Have any of you been maced? What happened? How did you feel?

7. Do any of you have an opinion one way or another about the use of a mace on a person? Please explain.

Liability and Lawsuits

1. Do any of you believe that there are too many lawsuits or that plaintiffs are not entitled to their day in court? If so, why?

2. Is there anyone who believes police officers should NOT be liable for acts causing injury? Why or why not?

3. Is there anyone here who for religious or philosophical reasons does not believe in bringing lawsuits of any kind? Explain.

4. Would any of you be hesitant to award punitive damages? Why?
- A. Under what circumstances do you believe punitive damages should be awarded, if any?
5. How many of you feel there should be a limit or ceiling on the amount of punitive damages someone should have to pay if they are found liable of the claims against them?

If Yes:

- A. Why? How did you reach this view?
- B. What amount would you set as a limit?
- C. Do you think, because of your concerns, that you might lower or limit the amount of punitive damages you would award in this case? Why?
- D. Could you go beyond that limit if the jury decides that the evidence supports a larger award?
- E. Is there anyone here who already has decided that punitive damages are inappropriate in this case? Why?

Respectfully submitted:

/s/ Timothy M. Padilla
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Attorneys for Plaintiffs

I HEREBY CERTIFY that a true and correct copy of the foregoing was filed and served via CM/ECF to all parties entitled to notice, this 25th day of September, 2012.

/s/ Timothy M. Padilla _____

Timothy M. Padilla